



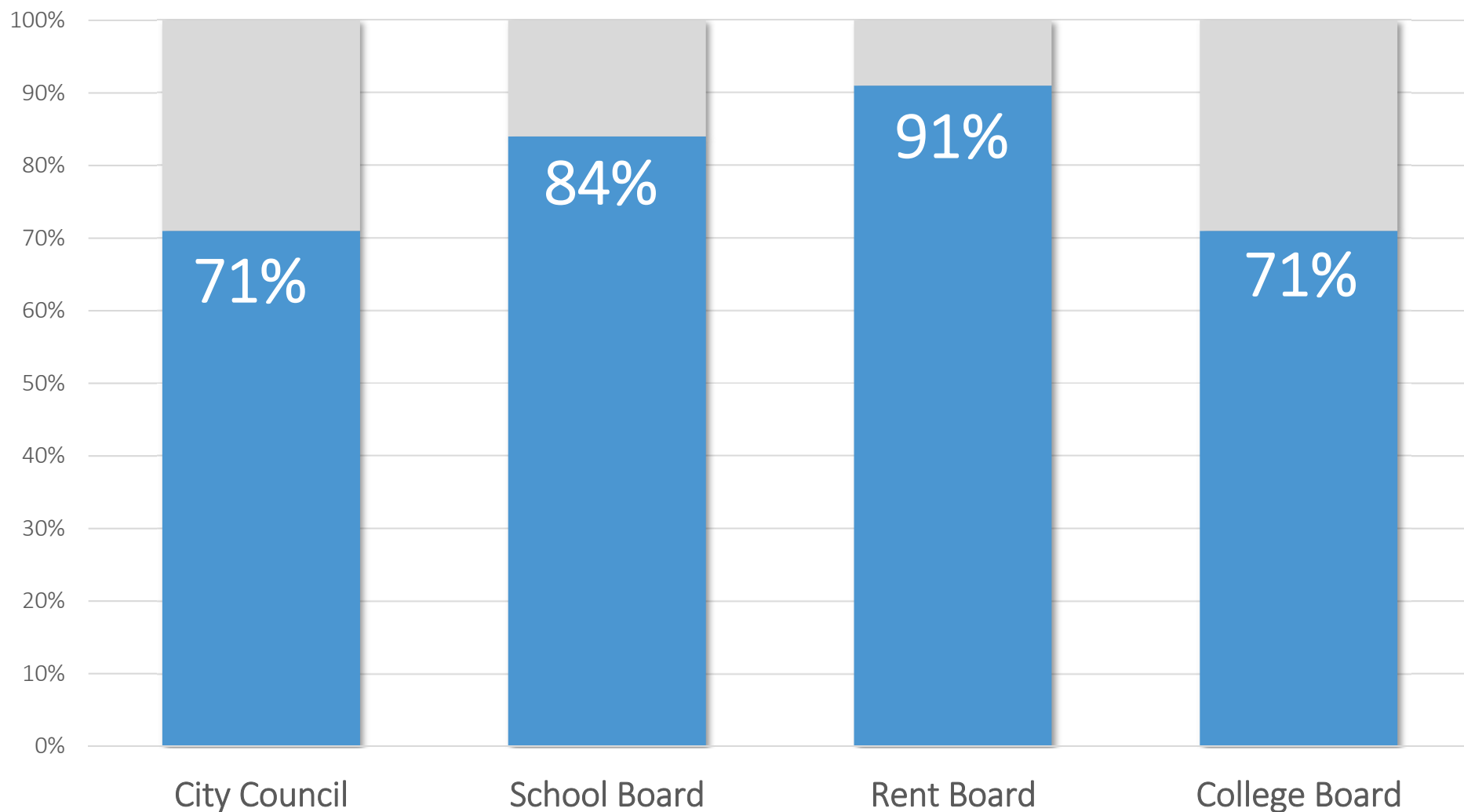
# City of Santa Monica's Opening Statement

## August 1, 2018

# Santa Monica

- Santa Monica is a **small, progressive, inclusive** city.
- Latino citizen voting age population = **13.6%**.
- Latino voters have achieved **great success in electing their preferred candidates, both Latino and non-Latino.**

## Success of Latino-Preferred Candidates, 2002-2016



## Some of Santa Monica's Successful *Latino-Preferred* Candidates



Tony Vazquez  
City Council



Glean Davis, Esq.  
City Council



Terry O'Day  
City Council



Kevin McKeown  
City Council



Dr. Jose Escarce  
School Board



Maria Leon-Vazquez  
School Board



Dr. Margaret Quinones-Perez  
College Board



Oscar de la Torre  
School Board

## Successful Latino-Preferred Candidates Include Candidates Of *Latino Heritage*



Tony Vazquez  
City Council



Gleam Davis, Esq.  
City Council



Steve Duron, Esq.  
Rent Control Board



Margaret Franco  
School Board



Dr. Jose Escarce  
School Board



Maria Leon-Vazquez  
School Board



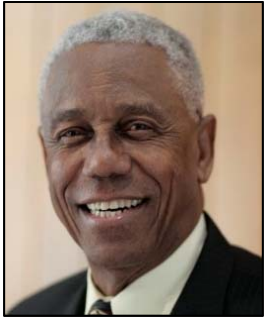
Dr. Margaret Quinones-Perez  
College Board



Oscar de la Torre  
School Board



## . . . And Santa Monica Has Elected Members Of Other Minority Groups



Nat Trives  
City Council



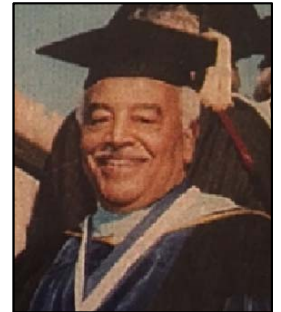
Hilliard Lawson  
City Council



Asha Greenberg, Esq.  
City Council



Dr. Dorothy  
Ehrhart-Morrison  
College Board



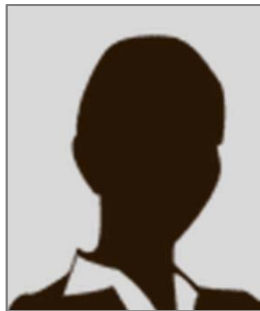
Dr. Alfred Quinn  
College Board



Nimish Patel, Esq.  
School Board



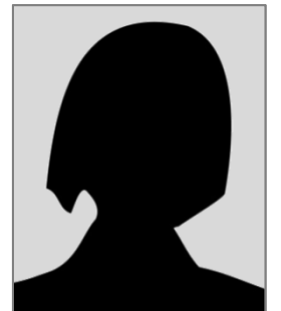
Barry Snell, CPA  
College Board



Brenda Gottfried, Esq.  
School Board



M. Douglass Willis  
Rent Control Board



Lacy Goode  
School Board

## Santa Monica's City Council

- 7 Council members
- Elected at-large
  - All voters in the city elect all council members
  - 4 council members elected in presidential years, 3 elected in gubernatorial years
  - Each voter casts 3 or 4 votes depending on number of seats at issue
  - 3 or 4 candidates with highest numbers of votes win
  - Mayor elected by City Council every 2 years

# Santa Monica's City Council Today

- Three-time city council winner – first in 1990
- Former Mayor
- Latino-Preferred Candidate
- Latino



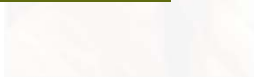
Tony Vazquez  
Former Mayor



Terry O'Day



Pam O'Connor



Sue Himmelrich



Kevin McKeown



## Santa Monica's City Council Today

- With Mr. Vazquez, 1 out of 7 of the City Council (14.3%) is Latino
- Santa Monica's Latino CVAP = 13.6%



Tony Vazquez  
Former Mayor

14.3% > 13.6%

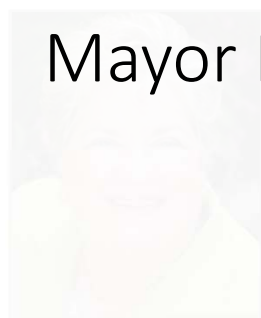
# Santa Monica's City Council Today



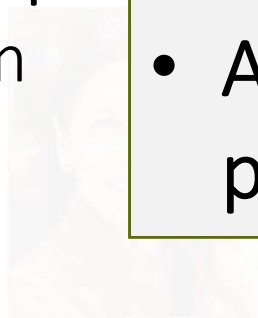
Ted Winterer  
Mayor



Glean Davis, Esq.  
Mayor Pro Tem



Pam O'Connor



Sue Himmelrich



Kevin McKeown

- Mayor Pro Tem
- Latino-preferred candidate
- Father is Latino
- Adopted by non-Latino parents

## Santa Monica's City Council Today

- With Mr. Vazquez and Ms. Davis, 2 out of 7 (28.6%) of the City Council are Latino
- Santa Monica's Latino CVAP = 13.6%



Tony Vazquez  
Former Mayor



Gleam Davis, Esq.  
Mayor Pro Tem

28.6% > 13.6%

## Why Are We Here?

- Plaintiffs claim the City's at-large election system is preventing Latinos from electing their preferred candidates.
- Plaintiffs claim the City's at-large election system was adopted and maintained for the purpose of discriminating against Latinos in their efforts to elect their preferred candidates.

## What Plaintiffs Are Asking From The Court



- Throw away the democratic process in Santa Monica ***adopted by voters in 1914***
- Impose an alternative method of election that Santa Monica ***voters have twice rejected*** (1975, 2002)



## Plaintiff's Claims:

1. California Voting Rights Act Claim
2. Equal Protection Claim

## Plaintiff's Claims:

- 1. California Voting Rights Act Claim**
2. Equal Protection Claim

## Legal Elements of CVRA Claim

- ✓ Racially Polarized Voting
- ✓ Vote Dilution
- ✓ Other Factors

## Section 14026(e): Definition of Racially Polarized Voting

“‘Racially polarized voting’ means voting in which there is a **difference, as defined in case law regarding enforcement of the federal Voting Rights Act of 1965**, in the choice of **candidates or other electoral choices that are preferred by voters in a protected class**, and in the choice of candidates that are preferred by voters in the rest of the electorate.”

# Racially Polarized Voting: Federal Case Law

## Gingles Factors

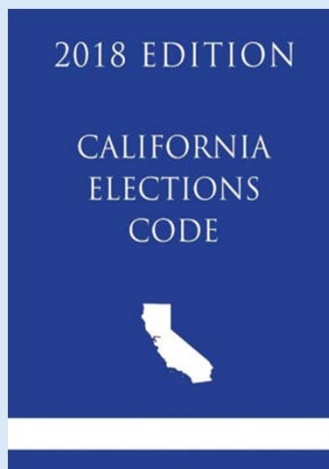
- (2) Latinos vote cohesively (minority cohesion)
- (3) Non-Hispanic whites vote “sufficiently as a bloc to enable [them] - in the absence of special circumstances – usually to defeat the minority’s preferred candidate”

*Gomez v City of Watsonville* (9<sup>th</sup> Cir. 1988) 863 F.2d 1407, 1413;  
*Thornburg v. Gingles* (1986) 478 U.S. 30, 50-51





## Section 14027: Vote Dilution



Elec. Code § 14027: “An at-large method of election may not be imposed or applied in a manner that **impairs** the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, **as a result of the dilution or abridgement** of the rights of voters who are members of a protected class, as defined pursuant to Section 14026.”

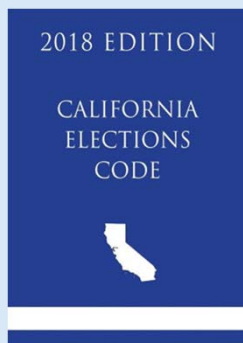
## Vote Dilution – Requires an Alternative System In Which Latino Voters Would Do Better

“Unless minority voters possess the ***potential*** to elect representatives in the absence of the challenged structure or practice, they **cannot claim to have been injured** by that structure or practice.”



*Thornburg v. Gingles* (1986) 478 U.S. 30, 50-51

# Is Vote Dilution Required?



Section 14028(a): “A violation of Section 14027 is established if it is shown that racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision.”

**Plaintiffs:** CVRA requires nothing more than racially polarized voting

**City:** This section does not alter CVRA’s requirement that vote dilution be shown

- If there were racially polarized voting without dilution of Latino votes, there would be no harm to address
- The CVRA’s purpose is not to end racially polarized voting; it is instead to provide relief from the harm it can cause; namely, dilution

## Vote Dilution Is Relevant To CVRA Remedies

“The fact that members of a protected class are not geographically compact or concentrated may not preclude a finding of racially polarized voting, or a violation of Section 14027 and this section, but may be a factor in determining an appropriate remedy.” (Elec. Code § 14028(c))

“[E]ven under the California Voting Rights Act, geographical compactness remains a consideration in developing a remedy.” *Jauregui v. City of Palmdale* (2014) 226 Cal. App. 4th 781, 789.

“There is no doubt that any district-based remedy the trial court might impose using race as a factor in drawing district lines would be subject to analysis under the *Shaw–Vera* line of cases. In reviewing a district-based remedy, it would be necessary to determine whether race was the predominant factor used in drawing the district lines. If it was, the plan would be subject to strict scrutiny.” *Sanchez v. City of Modesto* (2006) 145 Cal. App. 4th 660, 688

## Vote Dilution Is Also Relevant To The Equal Protection Claim

Three elements:

- (1) discriminatory intent;
- (2) causation; and
- (3) disparate impact

In a voting rights case, disparate impact is proven through evidence of vote dilution resulting from the current method of election, that is, evidence that a protected class would have greater electoral opportunity given the adoption of some other method of election



## Why Plaintiffs Cannot Prevail

Plaintiffs cannot prove *racially polarized voting*

- They *misconstrue the legal standards*
- They *lose* even under their own *misconstrued standard*

Plaintiffs cannot prove *vote dilution*

- Districts will not enhance Latino voting power
- There is no alternative system that will enhance Latino voting power

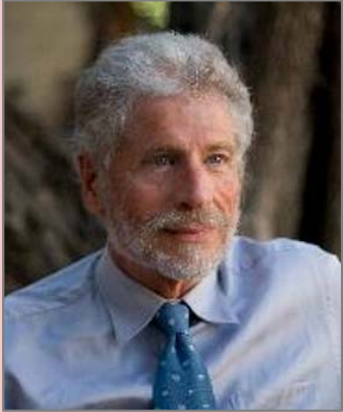
There is no available remedy

- In the absence of vote dilution, imposition of districts would amount to *racial gerrymandering* without a compelling state interest

## Legal Elements of CVRA Claim

- ✓ Racially Polarized Voting
- ✓ Vote Dilution
- ✓ Other Factors

## Dr. Kousser's Analysis Shows Why The City Wins



Dr. Kousser

Background	Social Science Historian
Focus	Latino-surnamed candidates
Elections Analyzed	Cherry-picks 10 Latino-surnamed candidacies in City Council elections alone
Conclusion	His own data shows there is no legally significant racially polarized voting

## One problem with Kousser's Analysis: CVRA's Focus Is On Preference Of Latino *Voters*, Not the Ethnicity of *Candidates*

“‘Racially polarized voting’ means voting in which there is a difference, as defined in case law regarding enforcement of the [FVRA], in **the choice of candidates or other electoral choices** that are **preferred by voters in a protected class**, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate.” (Elec. Code § 14026(e))

“In multiseat at-large election districts, where the number of candidates who are members of a protected class is fewer than the number of seats available, the **relative groupwide support** received by candidates **from members of a protected class** shall be the basis for the racial polarization analysis.” (Elec. Code § 14028(b))

## Ethnicity of the **Candidate** May be Relevant Only if that Candidate is Also Preferred by Latino Voters

“**One circumstance** that may be considered in determining a violation of Section 14027 and this section [14028] is the extent to which candidates who are members of a protected class **and** who are preferred by voters of the protected class, as determined by an analysis of voting behavior, have been elected to the governing body of a political subdivision that is the subject of an action based on Section 14027 and this section.” (Elec. Code § 14028(b))



## Second problem with Kousser's Analysis: CVRA Permits Consideration of Both Endogenous and Exogenous Elections

- “A violation of Section 14027 is established if it is shown that racially polarized voting occurs in elections for members of the governing body of the political subdivision **or in elections incorporating other electoral choices by the voters of the political subdivision.**” (Elec. Code § 14028(a))
- “**Endogenous**” and “**Exogenous**” elections are relevant.  
(07/19/18 Ruling on Plaintiffs’ Motion *in Limine*)
- Any election that demonstrates Latino voters’ **ability to elect** candidates of their choice is relevant.

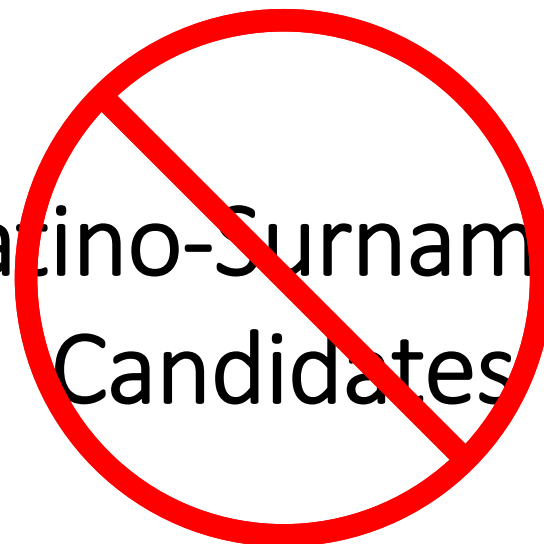
## Plaintiffs Use the Wrong Test

Latino-Preferred  
Candidates

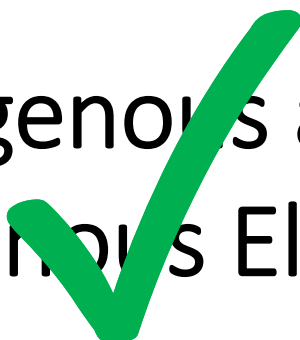


VS.

Latino-Surnamed  
Candidates



Exogenous and  
Endogenous Elections



Only Endogenous  
Elections



# What Are Ecological Regression and Ecological Inference?

- Methods of estimating individual voter behavior using aggregate group data
- Problems in applying these methods here:
  - Error, bias, uncertainty in surname matching
  - Error, bias, uncertainty in differentiating African-American and NHW voters
  - Santa Monica's relatively heterogeneous precincts



# Ecological Regression and Ecological Inference

- No material differences in the estimates of voter behavior by the parties' respective experts
- The key differences are:
  - Which **elections** are analyzed
  - Which **candidates** are analyzed

# Dr. Kousser's Weighted Ecological Regression Analysis

Year	Candidate	% Latinos for	% Non-Hispanic Whites for	Statistically Significant Difference?	Lost?
1994	Vazquez	145.5 (28.0)	34.9 (1.9)	Yes	Yes
1996	Alvarez	22.2 (12.9)	15.8 (1.1)	No	
2002	Aranda	82.6 (12.6)	10.6 (17.2)	Yes	Yes
2004	Loya	106.0 (12.3)	21.2 (2.0)	Yes	Yes
2008	Piera-Avila	33.3 (5.2)	5.7 (0.8)	Yes	Yes
2012	Vazquez	92.7 (9.0)	19.1 (2.0)	Yes	No
2012	Gomez	30.4 (3.3)	2.9 (0.7)	Yes	Yes
2012	Duron	5.0 (2.6)	4.4 (0.6)	No	
2016	Vazquez	78.3 (9.0)	36.6 (2.3)	Yes	No
2016	de la Torre	88.0 (6.0)	12.9 (1.5)	Yes	Yes

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# 2012: Robert Gomez Is Not a Latino-Preferred Candidate



Dr. Kousser

“In this election -- in this particular election, Mr. Gomez does not fall within the top four Latino candidates and **so he is not preferred.**”

(Depo Tr. at p. 142:15-23)

2012

Candidate	Latino	Asian	Est. Black	Est. Non-Hispanic White	Actual %
Ted Winterer	56.7 (14.9)	-16.0 (53.3)	-4.7 (18.2)	40.9 (3.3)	36.9
Terry O'Day	63.9 (8.0)	-32.8 (28.8)	36.0 (9.8)	37.3 (1.8)	35.7
Gleam Davis	50.2 (8.2)	-19.6 (29.3)	36.3 (10.0)	32.9 (1.8)	31.7
Tony Vazquez	92.7 (9.0)	23.9 (32.2)	7.1 (11.0)	19.1 (2.0)	24.9
Shari Davis	1.6 (12.3)	57.2 (44.1)	11.3 (15.0)	23.2 (2.7)	22.6
Richard McKinnon	5.0 (9.6)	41.4 (34.6)	4.2 (11.8)	17.1 (2.1)	16.7
John Cyrus Smith	8.7 (4.8)	78.9 (17.2)	11.6 (5.9)	10.2 (1.1)	14.0
Frank Gruber	15.1 (11.2)	55.9 (40.0)	-18.3 (13.6)	11.7 (2.4)	12.9
Jonathan Mann	19.8 (4.5)	-0.4 (16.2)	15.8 (5.5)	10.2 (1.0)	10.7
Bob Seldon	-11.0 (7.5)	96.3 (26.7)	7.0 (9.1)	5.4 (1.6)	8.9
Armen Melkonians	-0.6 (4.0)	25.8 (14.2)	18.8 (4.9)	7.4 (0.9)	8.3
Terence Later	-0.5 (5.6)	7.2 (20.2)	10.0 (6.9)	8.6 (1.2)	7.8
Jerry Rubin	9.5 (3.4)	-15.5 (12.3)	11.1 (4.2)	7.2 (0.8)	6.4
Robert Gomez	30.4 (3.3)	14.7 (11.8)	8.2 (4.0)	2.9 (0.7)	6.1
Steve Doron	5.0 (2.6)	16.8 (9.4)	5.0 (3.2)	4.4 (0.6)	5.1
No Vote	53.6 (35.4)	66.2 (126.9)	240.4 (43.2)	161.5 (7.8)	
Av. # of Candidates Voted For**	3.5	3.3	1.6		
Total Actual	8.3	5.3	4.9		

• 4 winners

N= 54 Ethnic percentages based on turnout at 2012 election. Candidates based on number of mail or in person ballots. Weights based on number of person ballots.

\*\* = (400 - % No Vote) / 100

# Dr. Kousser's Weighted Ecological Regression Analysis

Year	Candidate	% Latinos for	% Non-Hispanic Whites for	Statistically Significant Difference?	Lost?	Minority Preferred?
1994	Vazquez	145.5 (28.0)	34.9 (1.9)	Yes	Yes	Yes
1996	Alvarez	22.2 (12.9)	15.8 (1.1)	No		
2002	Aranda	82.6 (12.6)	10.6 (17.2)	Yes	Yes	Yes
2004	Loya	106.0 (12.3)	21.2 (2.0)	Yes	Yes	Yes
2008	Piera-Avila	33.3 (5.2)	5.7 (0.8)	Yes	Yes	Yes
2012	Vazquez	92.7 (9.0)	19.1 (2.0)	Yes	No	
2012	Gomez	30.4 (3.3)	2.9 (0.7)	Yes	Yes	No
2012	Duron	5.0 (2.6)	4.4 (0.6)	No		
2016	Vazquez	78.3 (9.0)	36.6 (2.3)	Yes	No	
2016	de la Torre	88.0 (6.0)	12.9 (1.5)	Yes	Yes	Yes

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**5/10**



# 1994: Tony Vazquez Is *Not* Defeated by Non-Hispanic White Bloc Voting



Dr. Kousser

“There is actually no statistically-significant difference between his vote and Holbrook's vote. So it's not possible to say whether the Latino -- I'm sorry -- the non-Hispanic whites favored -- more non-Hispanic whites favored Vasquez than Holbrook.” (Kousser Depo Tr. at p. 293:16-21)

**1994**

Candidate	Latino	Asian	Est. Black	Est. Non-Hispanic White	Actual %
Bob Holbrook	-108.9 (38.6)	371.7 (70.7)	37.7 (20.6)	34.4 (2.6)	36.5
Pam O'Connor	113.2 (27.3)	-177.9 (50.0)	5.6 (14.5)	40.1 (1.8)	36.3
Ruth Ebner	-103.5 (32.7)	323.5 (60.0)	44.5 (17.4)	34.4 (2.2)	35.7
Tony Vazquez	145.5 (28.0)	-209.4 (51.2)	19.2 (14.9)	34.9 (1.9)	33.2
Bruria Finkel	122.4 (28.4)	-234.8 (52.0)	5.1 (15.1)	37.6 (1.9)	33.0
Matthew P. Kann	-81.3 (30.8)	260.1 (56.4)	25.5 (16.4)	23.1 (2.1)	24.4
Bob Knonovet	-6.4 (7.5)	50.8 (13.8)	5.4 (4.0)	8.7 (0.5)	8.9
Ron Taylor	51.3 (6.1)	-35.7 (11.2)	9.9 (3.2)	4.8 (0.4)	6.3
John Stevens	37.4 (5.6)	9.8 (10.3)	3.1 (3.0)	3.6 (0.4)	5.6
Wallace Peoples	8.5 (6.7)	42.0 (12.3)	12.0 (3.6)	3.5 (0.5)	5.3
Joe Sole	11.8 (3.9)	-2.7 (7.2)	1.2 (2.1)	2.9 (0.3)	3.2
No Vote	109.8 (34.2)	-96.7 (62.8)	130.8 (18.2)	72.0 (2.3)	
Av. # of Candidates Voted For**	1.9	4.0	1.7	2.3	2.3
% of Registration	5.6	2.9	4.5	87.0	

• 3 winners

N= 94 Ethnic percentages based on voter registration number of mail and in-person ballots. Weighted



# Dr. Kousser's Weighted Ecological Regression Analysis

Year	Candidate	% Latinos for	% Non-Hispanic Whites for	Statistically Significant Difference?	Lost?	Minority Preferred?	Defeated by White Voting Bloc
1994	Vazquez	145.5 (28.0)	34.9 (1.9)	Yes	Yes	Yes	No
1996	Alvarez	22.2 (12.9)	15.8 (1.1)	No			
2002	Aranda	82.6 (12.6)	10.6 (17.2)	Yes	Yes	Yes	Yes
2004	Loya	106.0 (12.3)	21.2 (2.0)	Yes	Yes	Yes	Yes
2008	Piera-Avila	33.3 (5.2)	5.7 (0.8)	Yes	Yes	Yes	Yes
2012	Vazquez	92.7 (9.0)	19.1 (2.0)	Yes	No		
2012	Gomez	30.4 (3.3)	2.9 (0.7)	Yes	Yes	No	
2012	Duron	5.0 (2.6)	4.4 (0.6)	No			
2016	Vazquez	78.3 (9.0)	36.6 (2.3)	Yes	No		
2016	de la Torre	88.0 (6.0)	12.9 (1.5)	Yes	Yes	Yes	Yes

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# Dr. Kousser's Ecological Inference

Year	Candidate	% Latinos for	% Non-Hispanic Whites for	Statistically Significant Difference?	Lost?	Minority Preferred?	Defeated by White Voting Bloc
1994	Vazquez	13.1 (5.0)	14.4 (0.3)	No			
1996	Alvarez	13.1 (3.7)	7.0 (0.3)	No			
2002	Aranda	25.6 (4.9)	7.5 (0.4)	Yes	Yes	Yes	Yes
2004	Loya	23.9 (4.0)	6.6 (0.3)	Yes	Yes	Yes	Yes
2008	Piera-Avila	10.5 (2.8)	2.4 (0.3)	Yes	Yes	Yes	Yes
2012	Vazquez	22.0 (3.8)	8.9 (0.4)	Yes	No		
2012	Gomez	10.4 (2.2)	1.0 (0.3)	Yes	Yes	Yes	Yes
2012	Duron	2.8 (1.2)	1.5 (0.3)	No			
2016	Vazquez	17.1 (4.5)	16.0 (0.5)	No			
2016	de la Torre	27.5 (4.4)	7.1 (0.6)	Yes	Yes	Yes	Yes

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## Dr. Kousser's Admissions



Dr. Kousser

- When taking into account whether NHW bloc voting enabled the defeat of the Latino-preferred candidate:
- Dr. Kousser admits that his **ecological regression** analysis shows only **4 of 10** elections are racially polarized  
(Kousser Depo. at 303:3-17)
- Dr. Kousser admits that his **ecological inference** analysis shows only **5 of 10** elections are racially polarized  
(Kousser Depo. at 303:18-304:6)

“Usually” = More Often than Not

“The *Gingles* Court, in using the terms ‘usually,’ ‘normally,’ and ‘generally,’ ‘mean[t] something **more than just 51%.**’”

*Lewis v. Alamance Cty., N.C.*  
(4th Cir. 1996) 99 F.3d 600, 606 & fn. 4.



# Exogenous Elections (Even With Only Latino-Surnamed Candidacies)

## School Board

- de la Torre (2002-W, 2006-W, 2010-W, 2014-W)
- Jara (2004-L)
- Leon-Vazquez (2004-W, 2008-W, 2012-W)
- Escarce (2004-W, 2008-W, 2012-W)

## Rent Control Board

- Duron (2014-W)

## College Board

- Quinones (2004-W, 2008-W, 2016-W)
- Loya (2014-L)

## Totals:

- **16 Latino-surnamed candidacies**
- **14 out of 16 win = 87.5%**

# Dr. Lewis Analysis Shows Why The City Wins



Dr. Lewis



Background	Statistician and political scientist
Focus	Latino Voter Preferences
Elections Analyzed	All candidates in all Santa Monica elections in 1994 and from 2002 to 2016
Conclusion	Since 2002, 71% of Latino-preferred candidates have won <b>Council</b> seats, and 82% of Latino-preferred candidates have won seats on the <b>other boards</b>

## Who is a Latino-Preferred Candidate?

Elec. Code 14026(e): Directs courts to “case law regarding enforcement of the [FVRA]” to define racially polarized voting, including “candidates or other electoral choices that are preferred by voters in a protected class”

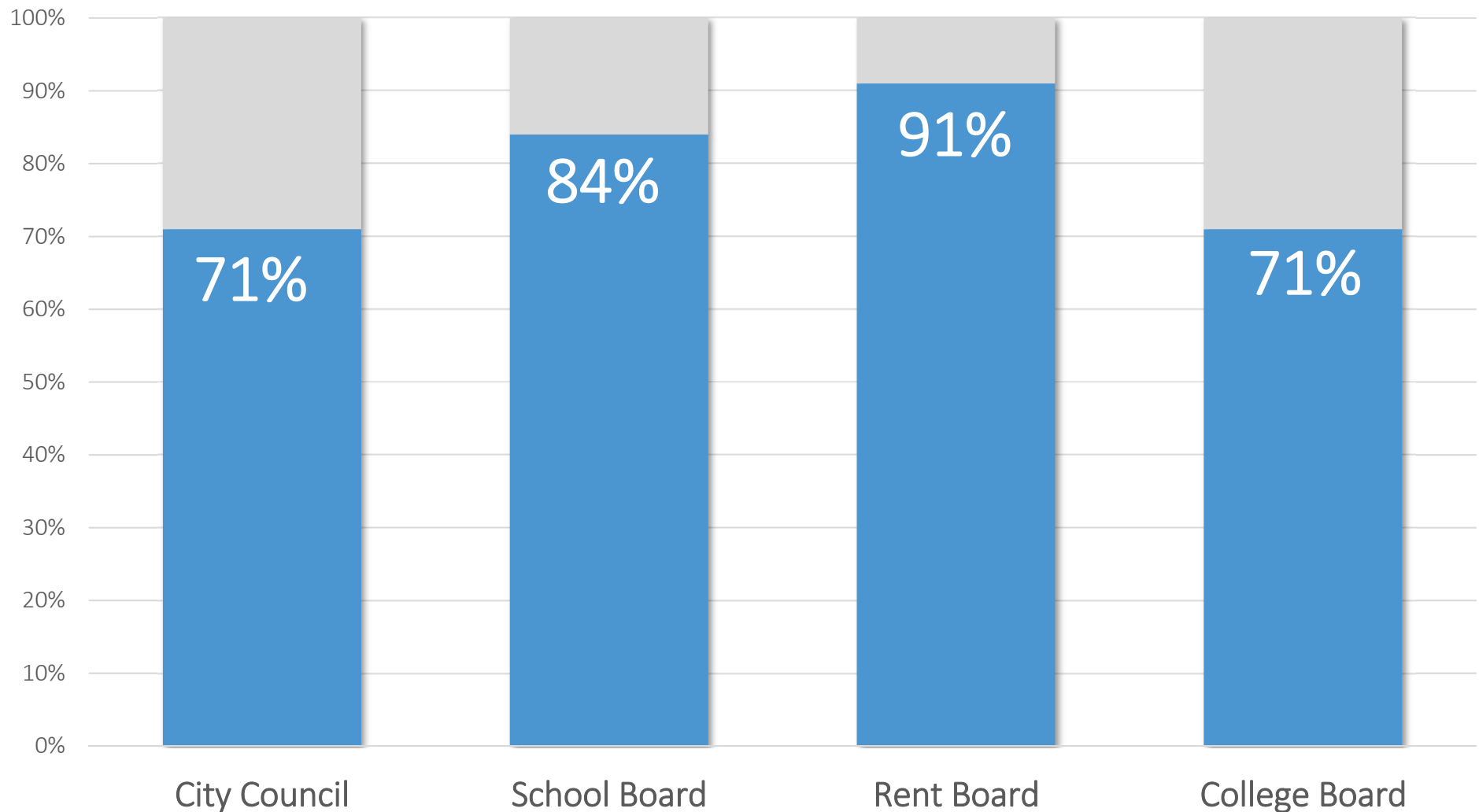
“We join our sister circuits in rejecting the position that the ‘minority's preferred candidate’ must be a member of the racial minority. To hold otherwise would, in the words of Judge Cabranes, provide judicial approval to ‘electoral apartheid.’”

“[W]e hold that **a candidate who receives sufficient votes to be elected if the election were held only among the minority group in question qualifies as minority-preferred.**”



Since 2002, Latino-Preferred Candidates Have Won 71% of Their Council Races and 82% of Other Races with 13.6% of the CVAP

*Success of Latino-preferred candidates, 2002-2016*





## Legal Elements of CVRA Claim

- ✓ Racially Polarized Voting
- ✓ Vote Dilution
- ✓ Other Factors

## No CVRA Violation Without Vote Dilution



Justin Levitt

“there is **no legal responsibility** under the CVRA to move from an at-large system”

“[i]f an alternative system **would not provide increased opportunity** to elect a candidate of choice or influence the election of a candidate of choice.”

## The Analyses of Plaintiffs' Experts Ely and Levitt

- Plaintiffs' experts, David Ely and Justin Levitt, opine that some alternative system would enhance Latino voting strength.
- ***Their analyses show the opposite.***



David Ely

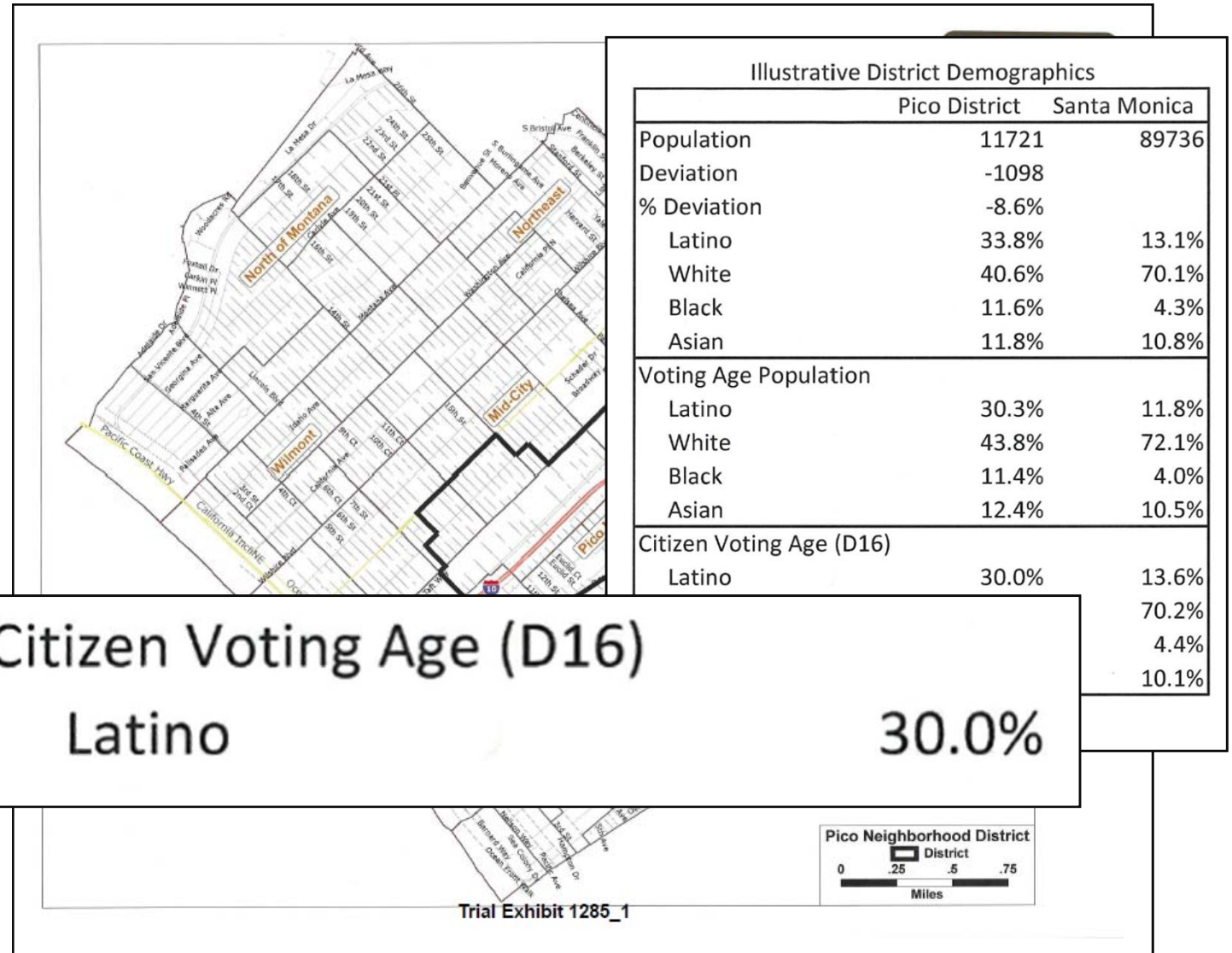


Justin Levitt

# Parties' Experts Agree: Impossible in Santa Monica to Even Approach Anything Resembling Majority-Latino District

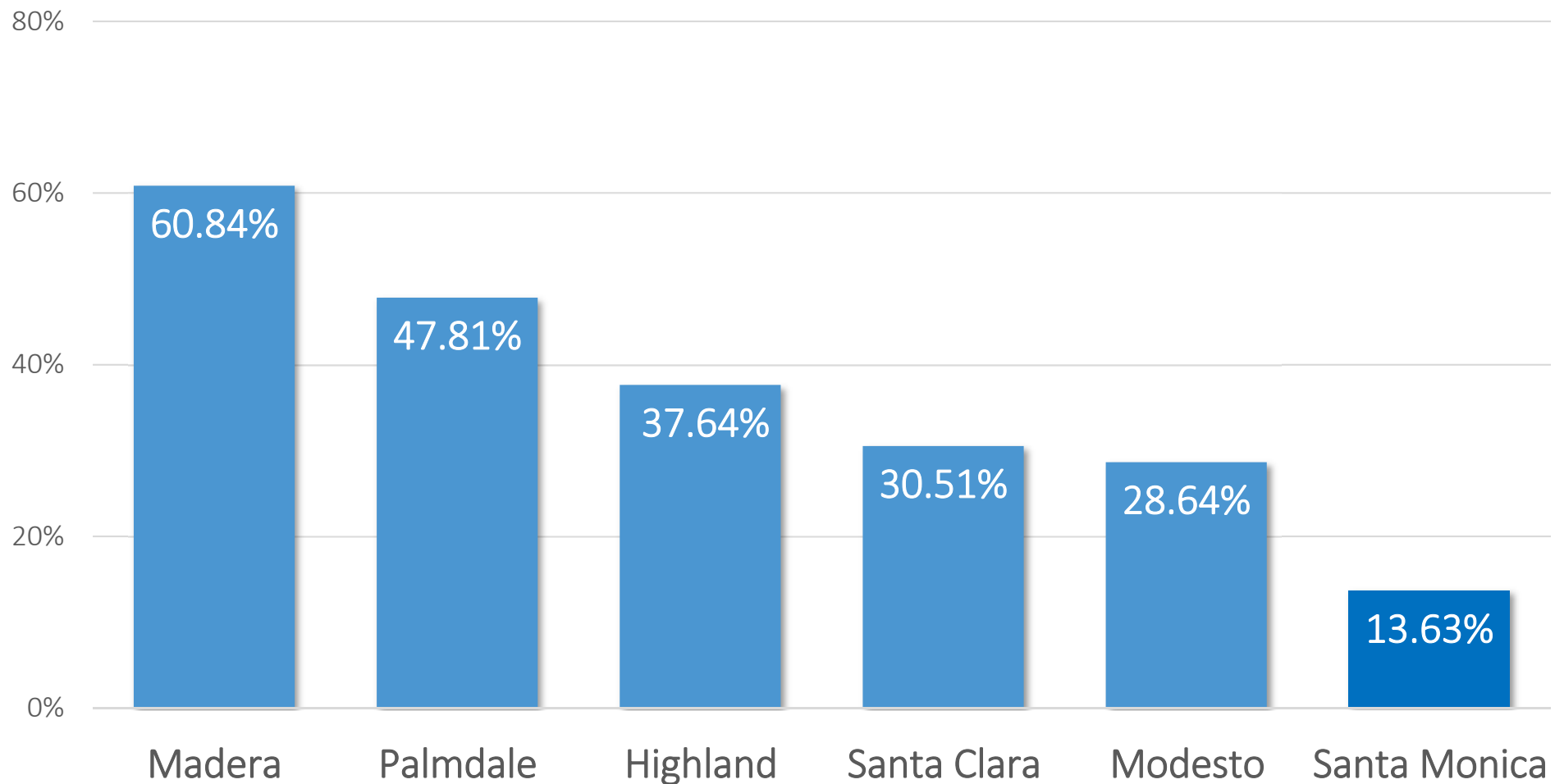


David Ely



## Santa Monica's Demographics: Different From Other Cities That Have Moved to Districts

Relevant minority group's share of CVAP  
(2016 5-year ACS data)



## Ely's Testimony



David Ely

- Draws a **hypothetical district** whose voting population is only 30% Latino.
- **Cherry-picks** only **3 of 22 elections**, and even those 3 do not show dilution.

## Ely's Testimony: 1994 Hypothetical District Election



David Ely

Says Tony Vazquez would have won an election in the hypothetical district in 1994, but *overlooks* these facts:

- Mr. Vazquez does not reside in the district and would not have been eligible to run
- Vazquez was elected at-large on three other occasions
- **Ely wants to trade Vazquez' 3 actual city council victories for none**

## Ely's Testimony



David Ely

Analysis of 2016 election shows a white Latino-preferred candidate (O'Day) would have defeated plaintiff's purported Latino-preferred candidate (de la Torre) in two out of three scenarios

2016 District Estimates				
	Narrow	Expansion	Hybrid	
BALLOT				
ODAY	1470	2237	1807	
WATSON	442	792	582	
WINTERER	1093	1699	1354	
VAZQUEZ	1580	2287	1906	
SMITH				
DELATORRE	1559	2046	1763	
DAVIS	1297	1986	1591	
LATER	310	529	410	
MELKONIAN	766	1222	951	
MANN	327	510	384	



## Ely's Testimony



David Ely

Analysis of 2016 election also shows that Tony Vazquez (who did win) would have defeated plaintiff's purported Latino-preferred candidate (de la Torre) in all three scenarios

2016 District Estimates				
	Narrow	Expansion	Hybrid	
BALLOT				
ODAY	1470	2237	1807	
WATSON				
WINTER	VAZQUEZ	1580	2287	1906
VAZQUEZ	1580	2287	1906	
SMITH				
DELATORRE	1559	2046	1763	
DAVIS	1297	1986	1591	
LATER	310	529	410	
MELKONIAN	766	1222	951	
MANN	327	510	384	

## Ely's "very unrealistic analysis"



David Ely

A single vote cast in a districted system *would be very different* from 3 or 4 votes cast in an at-large system. There is *no way to know who would have won* an election if it were conducted using districts.

2016 District Estimates			
	Narrow	Expansive	Hybrid
BALLOT	[REDACTED]		
ODAY	[REDACTED]		
WATSON	442	792	582
WINTERER	1093	1699	1354
VAZQUEZ	1580	2287	1906
SMITH	[REDACTED]		
DELATORRE	[REDACTED]		
DAVIS	1297	1986	1591
LATER	310	529	410
MELKONIAN	766	1222	951
MANN	327	510	384

## Kousser's Admission – No Idea Who Wins With Districts



Dr. Kousser

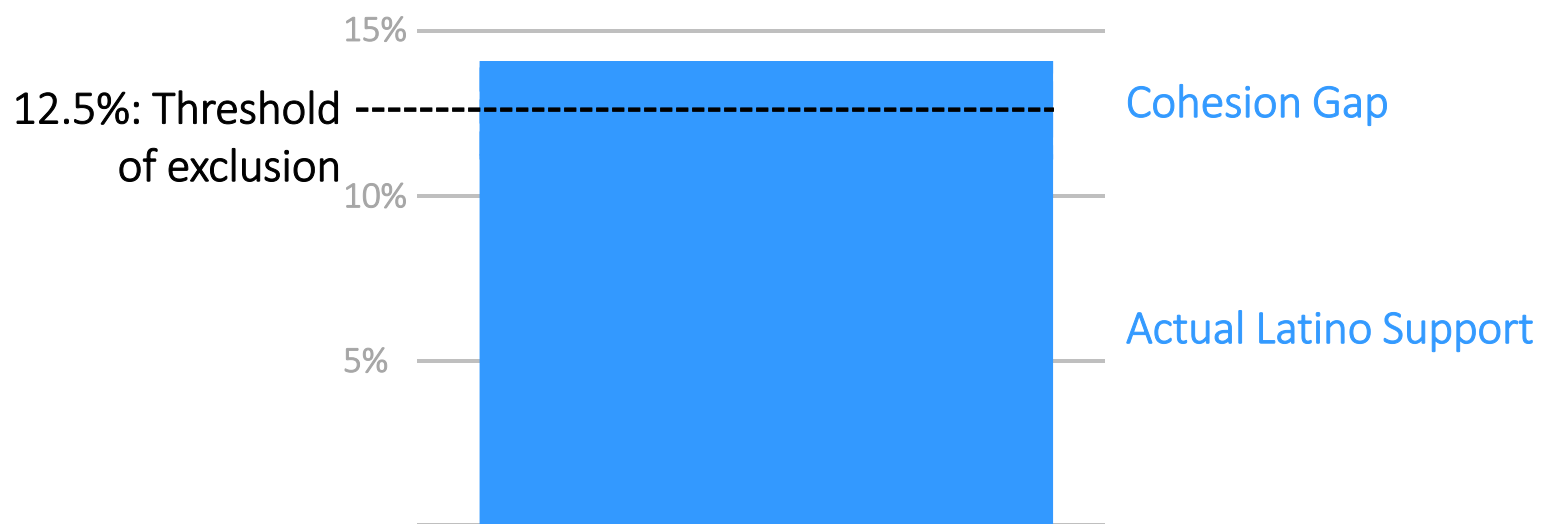
- “District elections and at-large elections have somewhat **different rhythms** to them and voters in those situation may have **different considerations** that they take into account strategically in deciding to vote.”
- “There are different considerations,” so how voters would vote under a district system is “**uncertain.**”

# Professor Levitt's Threshold of Exclusion is Fatally Flawed



Justin Levitt

- Suggests cumulative voting, limiting voting, and ranked-choice voting as **benchmarks** for vote-dilution analysis
- Relies entirely on the Latino CVAP exceeding the 12.5% **“threshold of exclusion”**
  - Reliant on **100% cohesion**
  - Dr. Kousser admits **Latino cohesion is far lower**  
(Ex. 1206, ¶¶ 10, 57.)



## Professor Levitt's Testimony



Justin Levitt

- Few jurisdictions in the U.S. use cumulative voting, ranked-choice voting, or limited voting.
- The California Secretary of State has opined that California law does not **authorize** cumulative voting.
- These alternatives would require new **machinery** and **extensive voter education**.

## City Wins Even Under Levitt's Threshold of Exclusion

Under the current at-large system (2014-2016), Latinos were able to elect six candidates of choice

(Vazquez, Davis, Himmelrich, O'Connor, McKeown, and O'Day)

Levitt's alternative system potentially increases the likelihood of Latinos electing one candidate of choice



Justin Levitt

**If we already have six Latino-preferred candidates, why change?**

## Legal Elements of CVRA Claim

- ✓ Racially Polarized Voting
- ✓ Vote Dilution
- ✓ Other Factors

## California Election Code 14028(e)

**“Other factors** such as the history of discrimination, the use of electoral devices or other voting practices or procedures that may **enhance the dilutive effects of at-large elections**, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which **hinder their ability to participate effectively in the political process**, and the use of overt or subtle racial appeals in political campaigns **are probative, but not necessary factors to establish a violation of Section 14027 and this section.”**



## California Election Code 14028(e)

**Only relevant if  
probative of limits on  
ability to participate in  
the electoral process**

“**Other factors** such as the history of discrimination, the use of electoral devices or other voting practices or procedures that may **enhance the ability to participate in elections**, denial of access to those processes determining which groups of candidates will be on the ballot or other factors in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which **hinder their ability to participate effectively in the political process**, and the use of overt or subtle racial appeals in political campaigns **are probative, but not necessary factors to establish a violation of Section 14027 and this section.**”

## Section 14028(e) Must Demonstrate Latinos' Inability To Participate In Political Process

**U.S. Supreme Court:** “The essence of a § 2 claim is that a certain electoral law, practice, or structure interacts with social and historical conditions to cause an inequality in the opportunities enjoyed by black and white voters to elect their preferred candidates.”

**Senate Report:** The “ultimate test” is “whether, in the particular situation, the practice operated to deny the minority plaintiff[s] an equal opportunity to participate and to elect candidates of their choice.”



*Thornburg v. Gingles* (1986) 478 U.S. at 47;  
S. Rep. No. 97-417 (1982), at p. 30

## No Racially Polarized Voting: No §14028 Factors

“Only upon satisfaction of these threshold criteria should a court conduct its totality-of-the-circumstances analysis and consider other relevant factors. . . .”

“Plaintiff must first establish these preconditions before the Court will consider the [Senate Report] factors.”

“Minority voters may be able to prove that they still suffer social and economic effects of past discrimination,...but they have not demonstrated a substantial inability to elect caused by the use of a multimember district.”

*McNeil v. Springfield Park Dist.* (7th Cir. 1988) 851 F.2d 937, 942;  
*Clark v. Holbrook Unified Sch. Dist. No. 3 of Navajo Cty.* (D.Ariz. 1988) 703 F. Supp. 56, 59;  
*Thornburg v. Gingles* (1986) 478 U.S. 30, 48, fn. 15



## Fair And Open Slating Processes

- Organizations have consistently **endorsed** Latino and Latino-preferred candidates.
- SMRRR endorsed **three Latino candidates** in 2016 alone.



*Los Angeles County*  
**DEMOCRATIC PARTY**

### The 2016 SMRR Team

#### For City Council

→ Tony Vazquez  
→ Ted Winterer  
→ Glean Davis

#### For Community College Board

→ Susan Aminoff  
→ Rob Greenstein Rader  
→ Margaret Quinones-Perez

#### For Rent Control Board

Anastasia Foster  
Caroline Torosis

**YES on GS**  
**YES on GSH**

## The Pico Neighborhood

- The CVRA is not a “**neighborhood voting rights**” statute
- The Pico Neighborhood **is not** and **has never been majority Latino**
- The Pico Neighborhood **is not a proxy** for all Latinos in Santa Monica
- 2/3 of Santa Monica’s Latinos live **outside** the Pico Neighborhood

# Virginia Avenue Park

- 9.5-acre park that reopened in 2005 after **\$12M** renovation
  - **Recreational facilities**
  - **Recording studio**
  - **Teen Center** (offers computer lab and tutoring)
  - Weekly **Farmers Market**
- The City also offers a **full schedule of free vocational and seniors programming**
  - **Over 60%** of program participants **live in the Pico Neighborhood**





# Pico Neighborhood Library (Virginia Avenue Park Campus)

- Opened in **2014**
- **\$11M** design and construction cost
- LEED-platinum-certified, two-building, 8,960 square-foot facility
- Includes **Spanish-language** section



Pico Branch Library



Ribbon-cutting ceremony  
celebrated by Plaintiffs

# Ishihara Park

- New **2.4-acre park** adjacent to Expo maintenance facility
- Opened in **2017**
- Constructed at cost of **~\$5M**
- Contains eight distinct **garden spaces**, including a **Learning Garden** where the City hosts seminars and workshops





# Gandara Park

- The landfill underneath the park **predates** residential development in the area.
- The City has carefully **treated** and **monitored** emissions for decades and **complies** with all applicable state and federal regulations.
- Gandara Park is a vibrant place that hosts **events**, including City-funded “Jazz on the Lawn” **concerts** in the summer, that are attended by residents from all corners of the City.



## The City's Substantial Investments In The Pico Neighborhood (2001 to present, non-exhaustive list)

Funding to school, family and youth services	\$32,000,000
Creation of the Pico Branch Library	\$11,000,000
Renovation of Virginia Avenue Park	\$12,000,000
Pico Streetscape	\$6,000,000
Renovation of Edison Language Academy	\$5,400,000
Ishihara Park Construction and Grants to Service Providers	\$28,500,000
<b>Total</b>	<b>\$94,900,000</b>

## Conclusion: Section 14028(e) Factors

**None of these items  
are probative of:**

Racially Polarized Voting  
or Vote Dilution

**Because there *is* neither...**

## Plaintiff's Claims:

1. California Voting Rights Act claim
- 2. Equal Protection Claim**

## Equal Protection Claim

Same dilution test

***plus***

An exacting discriminatory intent analysis

**Because plaintiffs lose on the CVRA claim,  
they necessarily lose on the Equal Protection claim**



*Johnson v. DeSoto Cty. Bd. of Comm'rs* (11th Cir. 2000) 204 F.3d 1335, 1344-1346

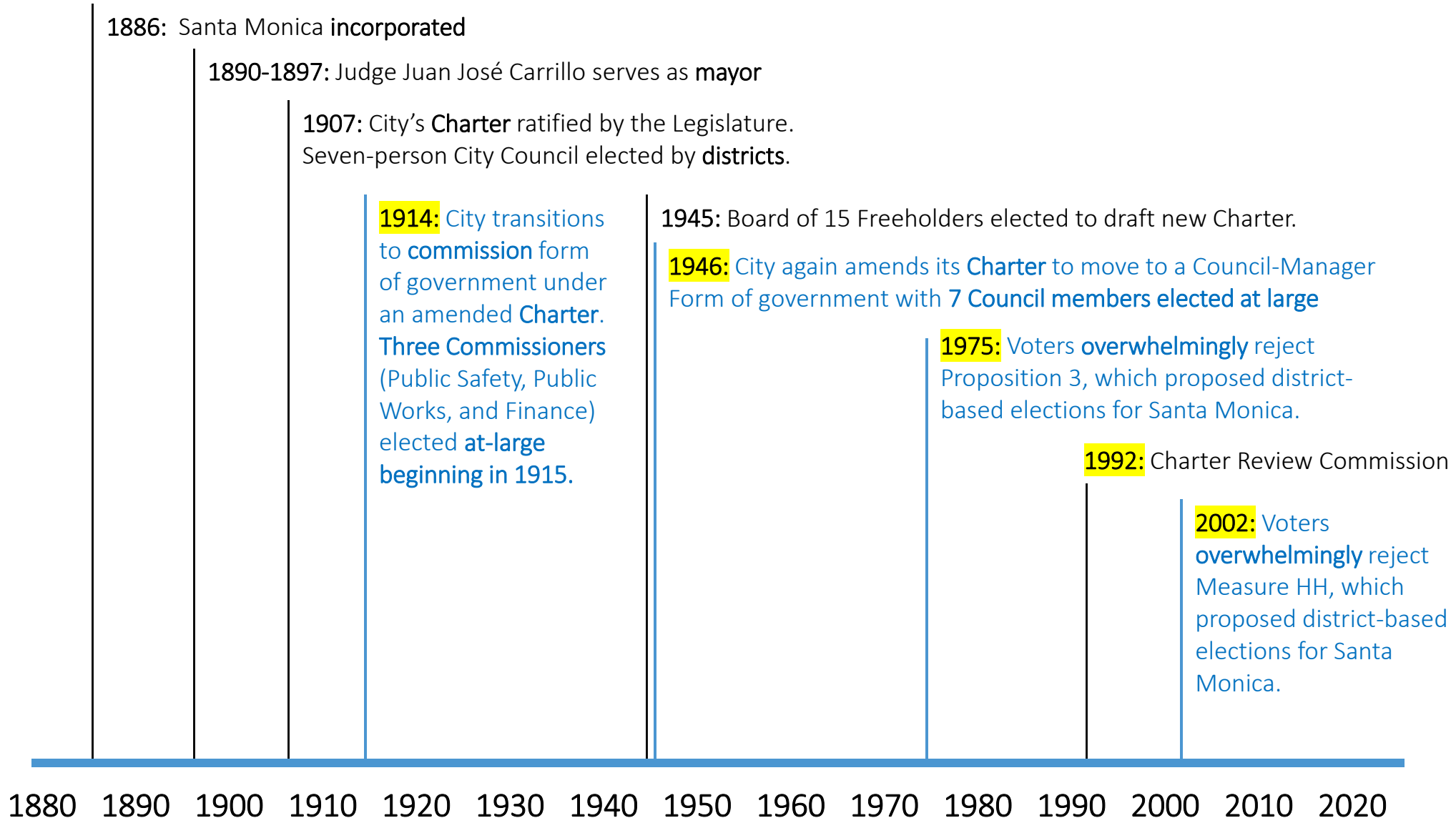
# There Is Also No Evidence That The 1946 Charter Amendment Was Enacted For Racially Discriminatory Reasons

## **Arlington Heights Factors**

1. “The **impact** of the official action,” especially “whether it bears more heavily on one race than another” (but “impact alone is not determinative”)
2. “The **historical background** of the decision, particularly if it reveals a series of official actions taken for invidious purposes”
3. “The **specific sequence** of events leading up the challenged decision”
4. “**Departures** from the normal procedural sequence” or “[s]ubstantive departures”
5. “The **legislative or administrative history** . . . especially where there are contemporary statements by members of the decision making body, minutes of its meetings, or reports”



# A Brief History Of Santa Monica's Electoral System



# 1914

1886: Santa Monica incorporated

1890-1897: Judge Juan José Carrillo serves as mayor

1907: City's first Charter ratified by the Legislature.  
Seven-person City Council elected by districts.

**1914:** City transitions to commission form of government under an amended Charter. Three Commissioners (Public Safety, Public Works, and Finance) elected at-large in 1915.

to draft new Charter.

at large

overwhelmingly reject which proposed the adoption of district-based elections in Santa Monica.

1992: Charter Review Commission

**2002:** Voters overwhelmingly reject Measure HH which proposed the adoption of district-based elections in Santa Monica.

1880 1890 1900 1910 1920 1930 1940 1950 1960 1970 1980 1990 2000 2010 2020



## 1914: Dr. Kousser



Dr. Kousser

“there is **little direct evidence one way or the other, on whether there was any racial motivation** behind the initial adoption of a commission form of government, elected at-large, in 1914 in Santa Monica.”

# 1946

1886: Santa Monica incorporated

1890-1897: Judge Juan José Carrillo serves as mayor

1907: City's first Charter ratified by the Legislature.  
Seven-person City Council elected by districts.

1914: City transitions to commission form of government under its second Charter. Three Commissioners (Public Safety, Public Works, and Finance) elected at-large in 1915.

1945: Board of 15 Freeholders elected to draft new Charter.

**1946: City amends its Charter.**

1947: Seven councilmembers elected at large

1975: Voters overwhelmingly reject Proposition 3 which proposed the adoption of district-based elections in Santa Monica.

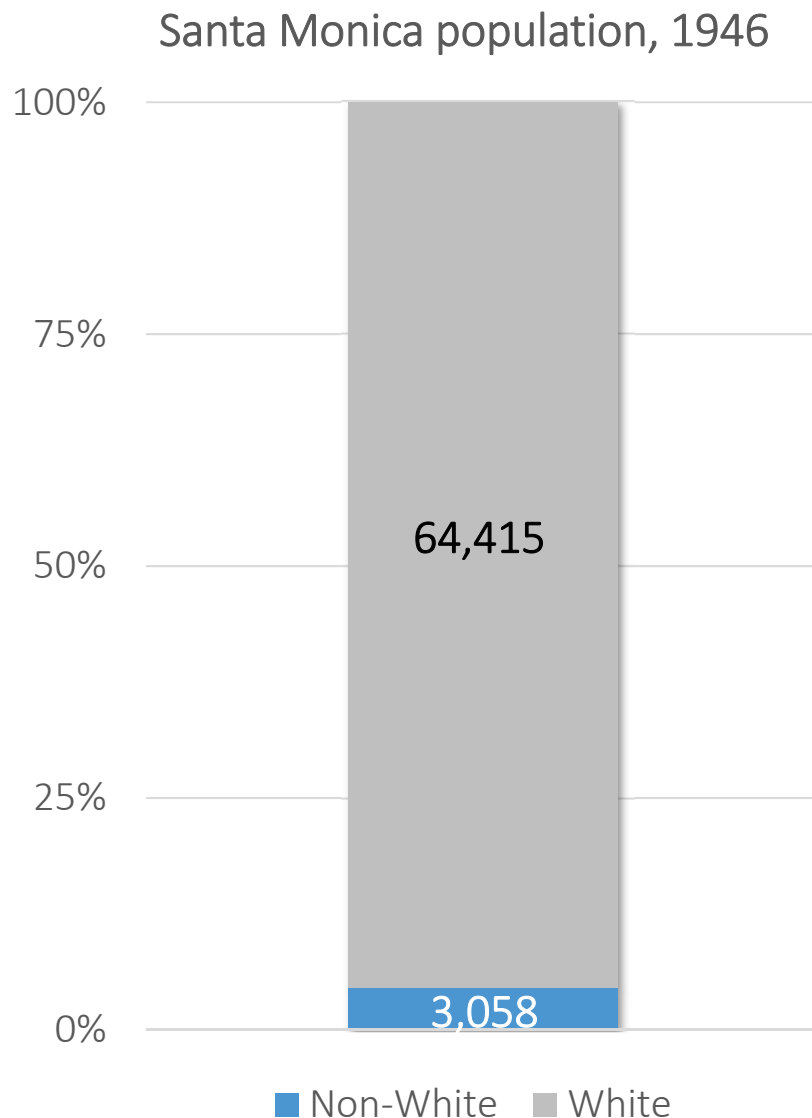
1992: Charter Review Commission

2002: Voters overwhelmingly reject Measure HH which proposed the adoption of district-based elections in Santa Monica.

1880 1890 1900 1910 1920 1930 1940 1950 1960 1970 1980 1990 2000 2010 2020

# *Arlington Heights* Factor 1

## No Impact Bearing More Heavily On Particular Racial Groups



### **Amended Charter increased minority voting strength**

- In 1946: White: **95.5%**  
Nonwhite: **70-80% Black**
- **No minority group**, alone or in combination with other minority groups, would have been **large enough** to elect candidates of its choice under a **districted** system.
- But the **expansion of the number of seats from 3 to 7** made it **mathematically easier** for cohesive minority groups to elect their preferred candidates.

## 1946: Dr. Kousser



Dr. Kousser

Q Do you -- **do you agree that the opportunity for representation of the minority groups has increased** over the present charter by the expansion of the city council from three to seven?

A Yes, increased.

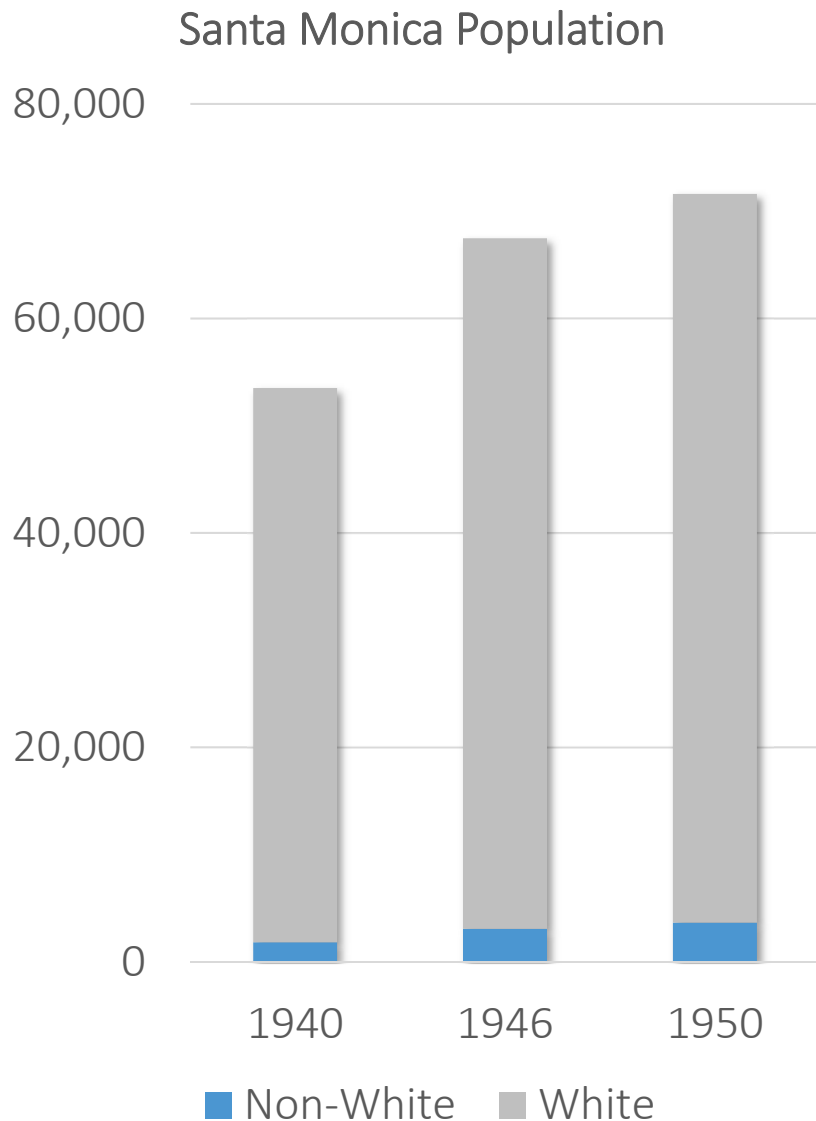
## *Arlington Heights* Factor 2

### Historical Background: No Evidence Of Official Discrimination

- In **other cases**, experts and courts concluding that a legislative enactment may have been motivated by discriminatory intent **focus on a recent history of official discrimination**.
- Here, by contrast, **Dr. Kousser does not relate any history of official discrimination** in Santa Monica predating the adoption of the seven-member Council in 1946.

## *Arlington Heights* Factor 3

### The Specific Sequence Of Events Leading Up To The Decision: A Nonexistent Non-White Population Boom



### Growth of the nonwhite population is a highly unlikely motivation for adopting new election system

- Dr. Kousser contends that the Charter amendment was motivated in large part by a desire to disenfranchise a **booming** minority population.
- But the City's nonwhite population remained tiny throughout the relevant period, growing from **3.4% in 1940 to 4.5% in 1946**.
  - It is **not plausible** that a 1.1 percentage-point increase in the minority population prompted the adoption of a new discriminatory method of election.

## *Arlington Heights* Factor 4 No Evidence Of Deviations From Normal Procedures



Dr. Kousser

- Dr. Kousser notes **no improprieties or deviations** from standard procedure

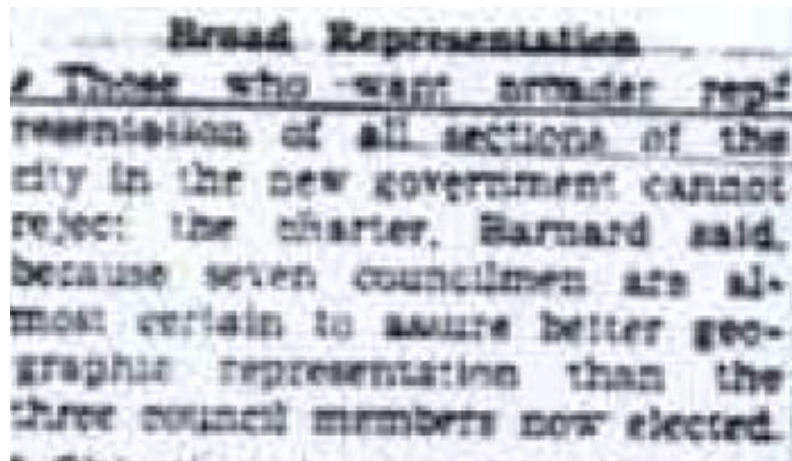
## Arlington Heights Factor 5

### No Legislative Or Administrative History Cited



Dr. Kousser

- Dr. Kousser **does not cite any legislative history** regarding the Board of Freeholders' decision — no minutes, agendas, or reports.
- He cites **almost no statements** attributable to the Board. The few he **does** cite disprove his point.
- Board members were aware that the Charter amendment would **strengthen** minority voting power.





# Santa Monica's At-Large System

## Potentially Discriminatory Attributes

Prohibition on bullet voting



Numbered posts



Majority vote requirement with runoffs



Small number of seats



## A portrait of a middle-aged man with grey hair and a beard, wearing a light blue dress shirt and a dark blue tie with white polka dots. He is looking slightly to the right of the camera with a thoughtful expression. The background is a blurred natural setting with trees and foliage.

# The Following Citizens Urge You To Vote "YES" On The New Charter

## The Following Citizens Urge You To Vote "YES" On The New Charter

H. L. Berry	Mrs. H. Chandler	Marshall Stevens, Atty.	John M. Sloan
Robert A. Marshall	Walter F. Hammer	Bob Kates	Mr. and Mrs. C. A. Swanson
Charles A. Seward	John R. Conry	Walter E. Carlson	W. E. Smith
William A. Moore	Charles E. Buhl, Atty.	Fred W. Hunsicker, Atty.	John O. Switzer
Kenneth A. Mitchell	D. N. Lott	Charles Langer	Jack Anderson
Mr. and Mrs. Ernest Brunkner	Sam Rastetter, D. Attorney	Dr. William W. Wright	Mr. Mabel Ward
C. A. Fritsch	Rev. Arthur Malach	Mr. and Mrs. C. E. Fritsch	Mr. T. W. Anderson
Thomas M. McCarthy	Dr. Arthur Newman, M.D.	Mr. Morris Tamm	Mr. and Mrs. R. A. Hallam
Samuel H. Hart	Mr. W. F. Carter	Mr. John Whitcomb	Mr. Robert Adams
Robert Hittiger	Frank Maury	Mr. Robert Brown	Florence Green
Paul Hittiger	Rev. Clifford Strand	Mr. Marian Brown	Phil D. Campbell
A. C. Quinn, Jr.	Paul E. Seels, Atty.	Mr. Geoffrey Brown	A. Eugene Schaffner
Thomas L. Folger	Henry E. Seels, Atty.	Mr. and Mrs. Leo B. Marx	Lawrence H. Eldon
Mr. and Mrs. Robert W. Wilson	Robert E. Schuchter, Atty.	Bernie Blumstein, Kitchener	Mrs. Muriel J. McGee
Richard Shewell	Edward E. Sigmund, Atty.	Dr. H. A. Swanson	Walter F. Phipps
Ernest Albright	Conrad L. Lutz, Atty.	Dr. Frederick Gruber	David A. Ruff
H. C. Strubbe	Mary Schwanke	Mr. D. F. Gruber	Hugh B. Phipps
Frank Bell	On. Carl P. White	Ed Schuchter	Valere C. Kline
Thomas J. Stone	Mayor Max E. Schuler	James McCarthy, Atty.	Dr. William Perry
David D. Morris	Mr. and Mrs. Fred A. Harris	Charles Stage	Edward L. Brunard
Charles Hopkins	William Steiner	Ed Schuchter	Arthur P. Deffen
Ben Wilson	Walter Hall	Mr. F. W. Listerman	Dr. Jan A. Madsen
Walter Lamb	Dr. Harold Brock, M.D.	John Miller	Dr. Fred Johnson
Mary F. Clark	Mr. and Mrs. Harry H. Hamilton	Harry Pappas	Mr. Frank De Grey
J. F. Brown	Robert H. Baker, Atty.	Henry Pappas	Edmund Stone
Samuel Crawford, Atty.	Frank Biederman, Atty.	H. E. DeLath	Robert J. O'Hare
George C. Bernini	Dr. and Mrs. D. A. Murray	Robert Ford	William E. Hargrave
Arnold Sweet	Rev. W. B. Quisenberry	Mr. and Mrs. Muriel H. Aldridge	T. S. Hargrave
Bruce B. Bunnell	Joseph M. O'Connell	Mr. and Mrs. Reginald H. Harrison	W. H. Hargrave
James Brown	Mr. Gerald Lutz	Philip T. Hill	Frederic E. Walsh
Herbert D. Brown, Atty.	Rev. Walter H. Penson	Rev. Don	Victor E. Berry
Charles Ashford	Mr. and Mrs. John J. Penson	T. G. Hill	Jean Louise Corbett
C. W. Barlow	Rev. W. B. Quisenberry	John Miller	John W. Fudge
Dr. L. A. Barlow	Harry Winters	Mr. and Mrs. Leo B. Marx	Mark T. Goss
Dr. J. W. Berglund	James O. Bird	Mr. and Mrs. Charles Warren	Mr. A. Madsen
J. J. Long	Vernon Thoms	Thomas L. McQuibbin	Charles Davis Hill
J. A. Bell	Rev. Fred W. Hatch	Dr. James Murray	Louis E. Mahoney
Walter Mertz	Dr. Frank Dyer	Mr. G. W. Collins	Forrest E. Madsen
Howard A. Wilson	H. J. Murphy	Ronald B. Kingston	Clifford Haland

## Vote "YES" On The Charter Amendment

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**CITIZENS' COMMITTEE**  
 Endorsing  
 COUNCIL-MANAGER CITY GOVERNMENT

# Dr. Kousser Ignores Critical Evidence that Undercuts His Opinion



Dr. Kousser

**Ysidro E. Reyes**

**The Vote Was 5 To 1 To Elect 15 Freeholders To Charter!**

**Rev. Alfonso Sanchez, Sr.**

**Rabbi Maurice Klienbergl**

**Vote "YES" On The Charter Amendment**

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**CITIZENS' COMMITTEE**  
Endorsing  
COUNCIL-MANAGER CITY GOVERNMENT

**SHILL OIL COMPANY, Inc.**  
1000 West Blvd. St., Los Angeles, Room 200

**THE CITIZENS' COMMITTEE**  
J. B. MacDONALD, Mgr.  
Santa Monica  
Phone 5-M. 4145

**Board of Freeholders**  
123 votes for the  
holders were elected  
specifically designed  
now. Vote "YES" at

**The Following Citizens Urge You To  
Vote "YES" On The New Charter**

**Dr. Kousser**

**Rev. Alfonso Sanchez, Sr.**

**Rabbi Maurice Klienbergl**

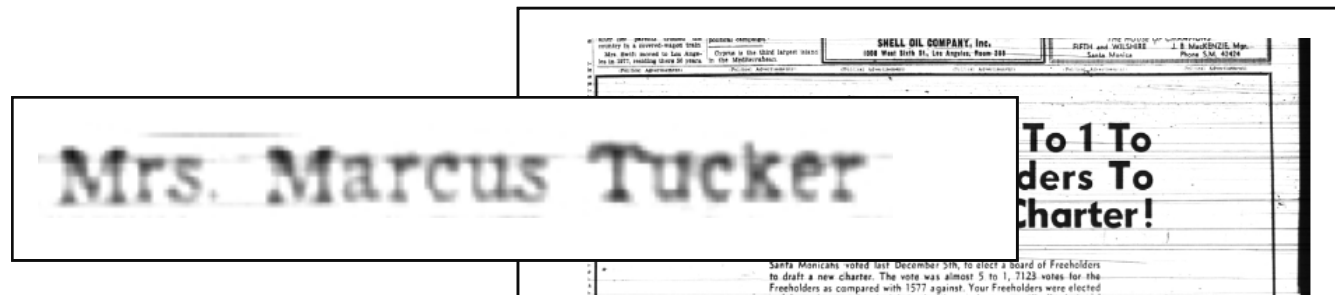
**Vote "YES" On The Charter Amendment**

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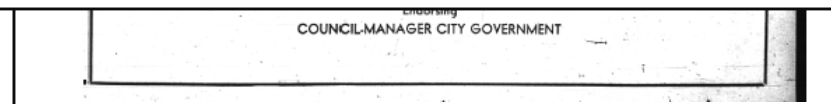
# Dr. Kousser Ignores Critical Evidence that Undercuts His Opinion



Dr. Kousser



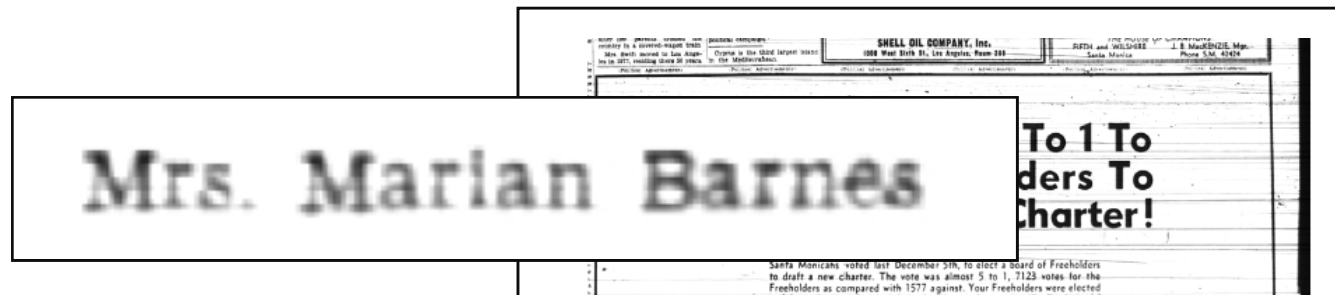
- Teacher and entrepreneur
- Her son, Marcus Jr., later became Santa Monica's Deputy City Attorney and a Los Angeles County Superior Court Judge
- SM Public Library contains the Marcus O. Tucker Collection: Black Men of Courage



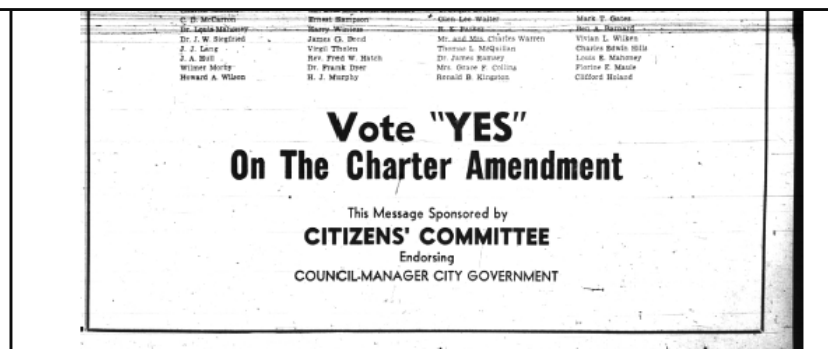
# Dr. Kousser Ignores Critical Evidence that Undercuts His Opinion



Dr. Kousser



- Married to Frank H. Barnes, civil rights advocate
- Frank Barnes was the President of the Southern Area Conference of the NAACP



# Dr Kousser Ignores Critical Evidence that Undercuts His Opinion



Dr. Kousser

~~REV. W. P. CARTER~~

To 1 To  
ders To  
Charter!

Santa Monica voted last December 5th, to elect a Board of Freeholders to draft a new charter. The vote was almost 5 to 1, 7123 votes for the Freeholders as compared with 1577 against. Your Freeholders were elected and have done an heroic job in drafting a charter specifically designed for a "Greater Santa Monica." Don't let yourself down now. Vote "YES" at the polls on November 5th, for the Charter.

- According to Dr. Kousser, Reverend Welford P. Carter was a “**Black community leader**[].”
- Rev. Carter led the **Calvary Baptist Church** in Santa Monica from the 1940s to the 1960s

**Vote "YES"**  
**On The Charter Amendment**

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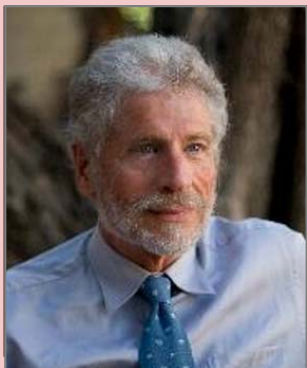


## Dr. Kousser's "Smoking Gun"



any part of the charter for them..."<sup>116</sup> "The proponents of sectionalism point to the ward system of big cities," the newspaper remarked, "but they forget that groups such as organized labor and the *colored people* do not have the voting power in Santa Monica that they have in New York and Chicago. Here they are minority groups. The interest of minorities is always best protected by a system which favors the election of liberal-minded persons who are not compelled to play peanut politics. Such liberal-minded persons, of high caliber, will run for office and be elected if elections are held at large."<sup>117</sup> **This admission by the most influential voice in Santa Monica that "organized labor" and "colored persons" would not be able to elect representatives of their choice in an at-large system, but would have to be protected by "liberal-minded persons of high caliber," presumably white, is quite close to a "smoking gun."**

## Dr. Kousser's "Smoking Gun" *Misfires*



- The cited Outlook editorial *literally* says the *opposite* of what Kousser represents
- Explains why at-large elections in Santa Monica will better “*protect[]*” “the *interest of minorities*,” compared with a district (ward) system
- *Contrasts* Santa Monica with cities like New York and Chicago, where African Americans had *greater “voting power”* because of *larger African American populations*, which is why districts work in those cities



# Dr. Kousser Then (1992) v. Now (2018) on the 1946 Charter What Changed?

## THEN (1992)

“It is not so much any one piece of evidence, any ‘smoking gun,’ that convinces me. . . .”  
(report cites article)

## NOW (2018)

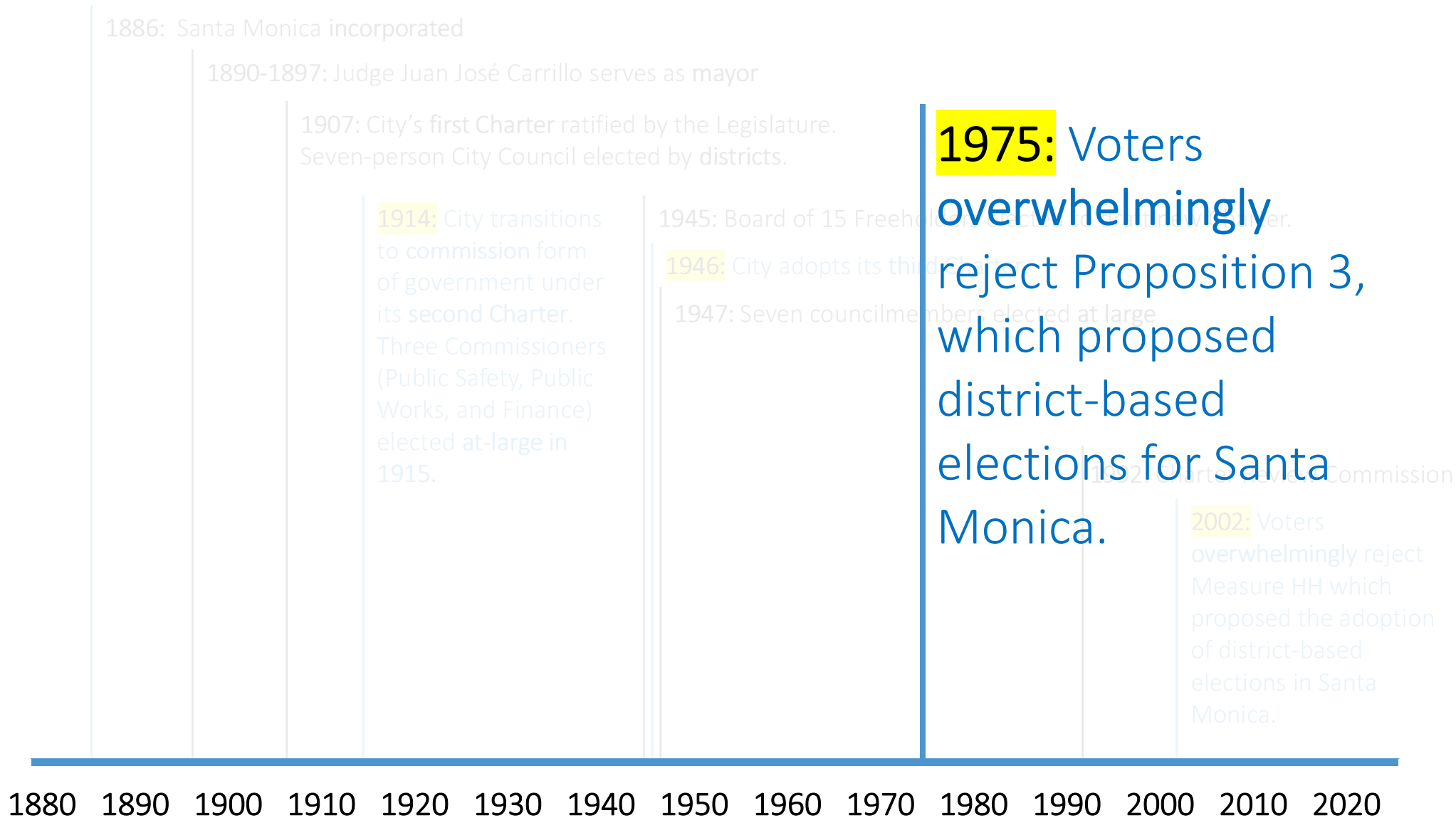
Calls that same article  
“quite close to a ‘smoking  
gun’” (bold in original).

Difference

2018 - An expert for Plaintiffs



# A Brief History Of Santa Monica's Electoral System



# Dr. Kousser Then (1992) v. Now (2018) on the 1975 Election What Changed?

## THEN (1992)

“it seems **dubious** at this point that a case for discriminatory intent could be made for the 1974-75 events”

## NOW (2018)

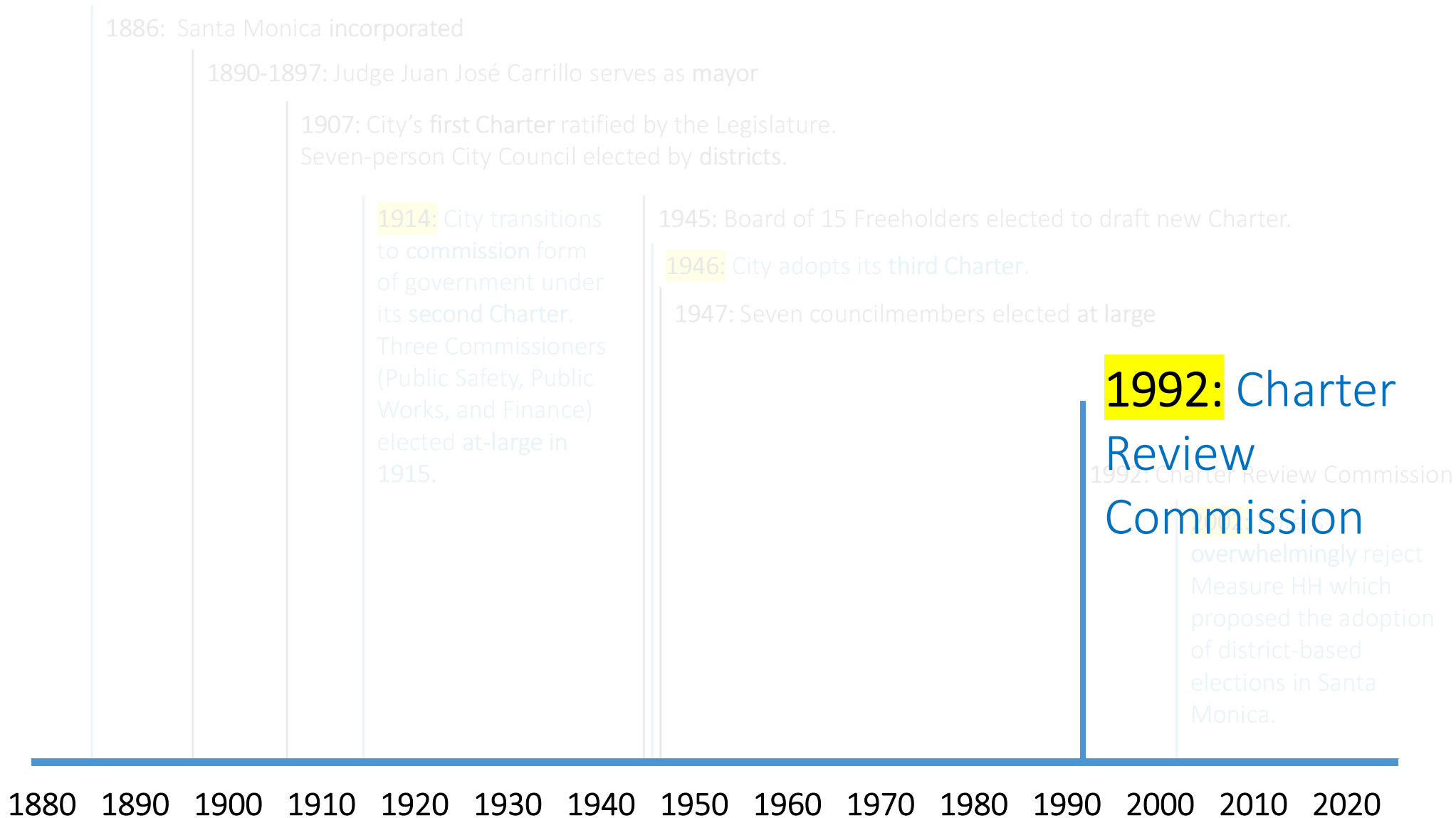
“Although in 1992, when I wrote a report for the Santa Monica charter commission, I doubted that the evidence, on balance, showed that districts were rejected in the 1975 referendum for discriminatory reasons, **I have now changed my mind.**”

Difference

2018 - An expert for Plaintiffs



# A Brief History Of Santa Monica's Electoral System



## 1992: City Council Action

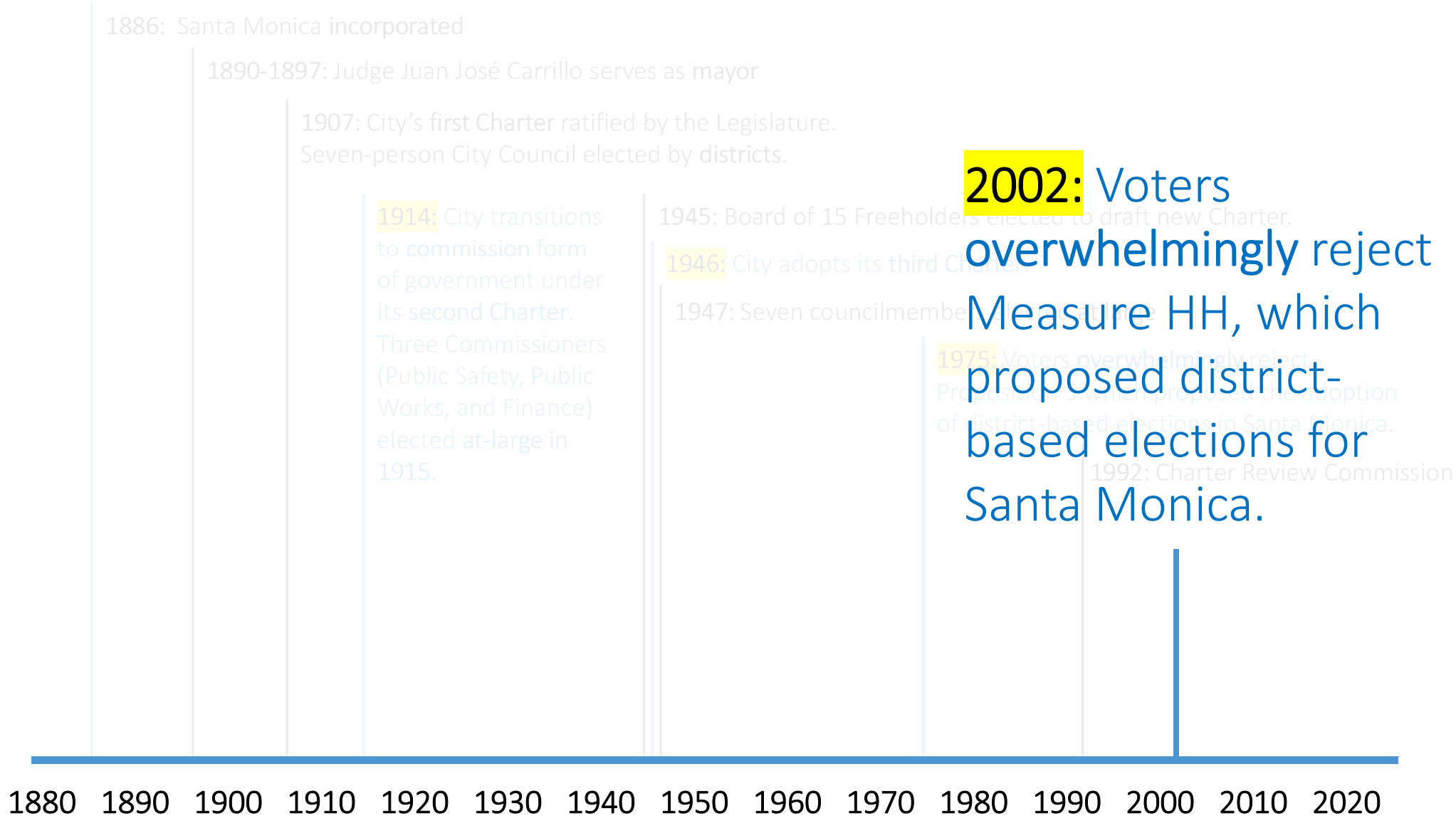
### **Charter Commission Report**

- Not enough time to complete study
- Recommends further study before Council makes any final change
- Does not recommend districts, and discusses their flaws at length

### **City Council Meeting (July 7, 1992)**

- Videotaped
- No statements indicative of any intent to discriminate
- Discussion of many of the flaws of districts cited in report
- Vote 4-3 against districts, but refers out for further information on both hybrid system and districts

# A Brief History Of Santa Monica's Electoral System



## 2002: Santa Monica Voters Rejected District Voting *Again*



Dr. Kousser

Q And in discussing Measure HH in your declaration, there is no discussion of discriminatory intent, correct?

A That's correct.

Q Why?

A Because it was simply too complicated.

## City's Expert Witness: Dr. Allan Lichtman



Dr. Lichtman



- Expert witness in more than 80 voting rights, civil rights, and redistricting cases – typically on behalf of plaintiffs
- Analyzes Dr. Kousser's claims of discriminatory intent from 1946 through today
- Confirms: Dr. Kousser's analysis is demonstrably flawed



# CVRA and Equal Protection: Why Plaintiffs Can't Win

## CVRA:

	Yes	No	N/A
Racially Polarized Voting	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vote Dilution	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other Factors	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

## Equal Protection:

	Yes	No	N/A
Discriminatory Intent	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vote Dilution (Discriminatory Impact)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## No Basis for Denying Santa Monica Voters Their Chosen Election System

- Santa Monica operates under a charter that defines its election system and is subject to change only by the voters (the City Council cannot itself make any change).
- Santa Monica's voters chose an at-large system in 1914, and overwhelmingly voted against initiatives that would have changed the system in 1975 and 2002.
- Plaintiffs must be held to their burden of presenting evidence sufficient to require a change in the election system.
- Plaintiffs cannot meet this burden.

